

BEFORE THE INDIAN CLAIMS COMMISSION

THE PILLAGER BANDS OF CHIPPEWA INDIANS)	
IN THE STATE OF MINNESOTA,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 144
)	
THE UNITED STATES OF AMERICA,)	
Defendant.)	

Decided: July 17, 1974

FINDINGS OF FACT ON ATTORNEY'S FEE

Upon consideration of the petition for award of attorney's fee filed on March 29, 1974, and the statement in support thereof filed on June 24, 1974, by Robert C. Bell, Jr., attorney of record for the Pillager Bands of Chippewa Indians, plaintiffs herein, and of the defendant's response thereto, and further upon consideration of the entire record herein, including the contracts of employment of Attorney Bell, the Commission makes the following findings of fact:

1. The Award

On October 25, 1973, the Commission entered a final award in Docket 144, directing that the Pillager Bands of Chippewa Indians recover from the defendant the sum of \$405,293.06 in full satisfaction of all claims in Docket 144 (32 Ind. Cl. Comm. 156, 190).

2. The Petition for Attorney's Fee

On March 29, 1974, Robert C. Bell, Jr., attorney for the plaintiffs, applied for the allowance of an attorney's fee in the amount of \$40,529.30, being ten per cent of the final judgment of \$405,293.06 which was entered in subject docket.

3. Notice of Filing to Executive Agencies and Plaintiffs

By letters of March 29, 1974, the Deputy Clerk of the Commission notified the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, and the Commissioner of Indian Affairs, Department of the Interior, of the filing of subject petition for attorney's fee. Mr. David Munnell and Mr. Simon Howard, both of Cass Lake, Minnesota, representatives of the Pillager Bands were notified in letters of May 9, 1974, of the petition for attorney's fee in this case.

The Department of Justice transmitted to the Commission comments on the petition from the Associate Solicitor, Division of Indian Affairs, Office of the Solicitor, Department of the Interior, and from the Acting Deputy Commissioner of Indian Affairs. These contained no recommendation regarding the amount of the attorney's fee requested in the subject petition. The Commission has received no reply from representatives of the plaintiffs to the letters notifying them of the petition for attorney's fee in this case.

4. Attorney's contracts

Attorney's services on this claim were performed under contract I-1-ind.42042 dated December 23, 1947, and approved on July 7, 1948. The contract was between the Pillager Band of Chippewa Indians and Attorney Robert C. Bell, Jr., and was for a term of five years with provision for an extension of five years or such longer period as might be authorized by the Secretary of the Interior. Compensation

under the contract was made contingent on recovery for the plaintiffs, in an amount to be determined by the tribunal making the award, but not exceeding ten per cent of any and all sums recovered.

The above-mentioned contract was succeeded by contract 14-20-0650-1122 dated May 17, 1962, between the same parties. It was approved by the Acting Solicitor, Department of the Interior on September 27, 1962. By its own terms, the contract became effective on July 7, 1953, to continue for ten years after approval, subject to extensions thereafter of two years each. On October 10, 1973, the contract was extended to September 27, 1974, by a representative of the Bureau of Indian Affairs.

The attorney's compensation under this contract was also made wholly contingent on recovery for the plaintiffs, in an amount found equitably due by the court or tribunal ordering the recovery - but not to exceed ten per cent of the sum recovered for the plaintiffs.

5. Services

In prosecuting the subject claim, Mr. Bell gave legal advice and representation in support of the plaintiffs' motion for summary judgment in the title proceeding, which motion was granted by the Commission's order and supporting findings and opinion in the title phase of this case (19 Ind. Cl. Comm. 500, 511 (1968)). Thereafter, Attorney Bell performed extensive and detailed legal services, preparing legal arguments, brief, and evidentiary material to support plaintiffs'

motion for reconsideration of the Commission's finding on the taking date of the lands here involved. Oral argument on the motion was held before the Commission; the motion was denied by the Commission; and appeal therefrom was taken to the Court of Claims. Mr. Bell performed many legal services, including preparing and filing a lengthy brief and appendices supporting the appeal. The Court of Claims sustained the Commission's decision. Thereafter, Mr. Bell tried the case on value before the Commission and prepared a brief and proposed findings thereon. He also prepared and filed a reply brief and objections to the defendant's proposed findings on value. Throughout the proceedings, he consulted and discussed the prosecution of subject claim with the plaintiffs. The work culminated in the final award of \$405,293.06, representing the fair market value of the land involved, amounting to \$425,000.00, less the consideration of \$19,706.94 paid by the United States for the cession (32 Ind. Cl. Comm. 156, 190 (1973)).

6. Conclusion

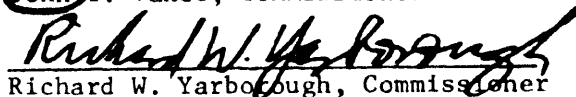
Considering the valuable services rendered by Mr. Bell in these proceedings, the time involved in litigation, the results obtained, and in accordance with standards obtaining for prosecuting similar claims in courts of law, the Commission finds that Attorney Robert C. Bell, Jr., is entitled to receive the full ten per cent of the award as provided in Section 15 of the Indian Claims Commission Act (60 Stat. 1049, 1053). The Commission finds that Mr. Bell is entitled to an attorney's fee in the amount of \$40,529.30, being ten per cent of

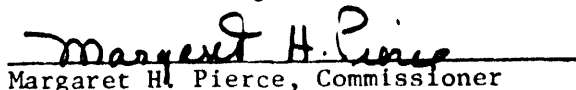
the final judgment of \$405,293.06, which was entered in this proceeding, and that payment to him of this sum out of the funds appropriated to pay the aforementioned award will represent payment in full of all claims for legal services rendered in subject docket.

An order to this effect is being this day entered herein.


Jerome K. Kuykendall, Chairman


John I. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner